

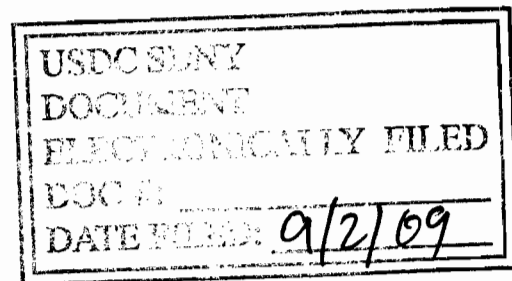
HECLER/EMJ

543-08/MEU/LJK

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK-----X  
EITZEN BULK A/S,

Plaintiff,

-against-

ARMADA (SINGAPORE) PTE LTD., IHX  
(UK) LTD., and INTERNATIONAL  
SHIPPING & LOGISTICS FZE,Defendants.  
-----X09 CIV 7612 (AKH)**ORDER TO SHOW CAUSE**

WHEREAS, EITZEN BULK A/S ("Eitzen") is a judgment creditor of this Court with relation to the action entitled *Eitzen Bulk A/S v. Ashapura Minechem Ltd., et al.*, 08 civ 8319 (AKH) ("the related action") and is entitled to attempt to collect on such judgment, which is in excess of \$36 million; and

WHEREAS, in the related action, the following funds are held under attachment pursuant to Rule B of the Supplemental Admiralty Rules:

<u>DATE</u>	<u>AMOUNT (US\$)</u>	<u>GARNISHEE</u>
10/15/2008	173,000.00	Bank of New York Mellon
10/16/2008	47,500.00	HSBC Bank
11/4/2008	924,957.67	Bank of India
1/12/2009	5,810.00	HSBC Bank
2/12/2009	26,000.00	Citibank
2/19/2009	84,720.00	HSBC Bank
3/20/2009	3,090.00	Bank of New York Mellon
3/20/2009	3,090.00	Bank of New York Mellon
3/20/2009	3,090.00	Bank of New York Mellon

For a total amount restrained of \$1,271,257.67; and

WHEREAS, Eitzen sought to collect against its judgment by serving these garnishee banks holding funds of Judgment Debtor Ashapura Minechem Ltd. pursuant to a Rule B attachment in the related action; and

WHEREAS, Eitzen has been unable to collect the subject funds because the garnishees have advised that (a) the subject funds are held pursuant to Rule B attachment orders in four other actions in addition to the related action, and (b) that the three restraints dated March 20, 2009 have been deposited into the registry of the Court pursuant to an Order of Judge Scheindlin in one of the four other actions; and

WHEREAS, Eitzen has commenced the instant action on August 28, 2009 by the filing of a Summons and Verified Complaint, seeking to interplead the plaintiffs in the four other actions before this Court so as to obtain an order declaring which entity has priority to the subject stake of funds; and

WHEREAS, Eitzen has indicated that the other actions in which these same funds have been restrained are the following:

<b><u>PLAINTIFF NAME</u></b>	<b><u>DOCKET NO.</u></b>	<b><u>DATE FILED</u></b>	<b><u>CLAIM AMOUNT<sup>1</sup></u></b>
Armada (Singapore) Pte. Ltd.	08-8257 (PKC)	9/25/2008	\$6,470,308.35
Armada (Singapore) Pte. Ltd.	08-8258 (CM)	9/25/2008	\$1,181,133.70
IHX (UK) Ltd.	08-9436 (SAS)	11/3/2008	\$25,943,535.00
International Shipping & Logistics FZE	09-482 (GEL)	1/16/2009	\$276,066.00

and;

WHEREAS, it is plain that the amounts of the claims in the other four actions, together with the amount of the Judgment in this action, exceed the amount restrained, and so the

<sup>1</sup> "Claim Amount" here refers to the amounts authorized to be restrained by the Court in these actions.

quantum of restrained funds is insufficient to satisfy the Judgment in this case and the judgments anticipated by the Plaintiffs in the other actions; and

WHEREAS, none of the other actions has proceeded to Judgments of this Court as of the time of this Order, meaning that Eitzen is the only Judgment Creditor out of the various parties presently taking legal action against Ashapura Minechem Ltd. and the subject fund; and

WHEREAS, Eitzen has represented that the Defendants herein (Plaintiffs in the other actions) will not voluntarily consent to the release of the restrained funds to Eitzen as Judgment Creditor and will not voluntarily consent to the deposit of the restrained property into the registry of the Court, and are all represented by New York attorneys with respect to their claims before this Court; and

WHEREAS, Eitzen has represented that Ashapura Minechem Ltd. has not otherwise satisfied the Judgment herein, and that the principal amount still owed to Eitzen on the Judgment exceeds \$36 million; and

WHEREAS, Eitzen claims that as the first and sole Judgment Creditor, the whole of the restrained funds should be surrendered to Eitzen; and

WHEREAS, Eitzen has represented that the garnishees are mere stakeholders with no interest in the attached funds and has represented further that it would serve the purpose of justice and economy if the attached funds were all deposited into the registry of this Court; and

WHEREAS, no prior request for this or for any similar relief has been sought in this or in any other action; and FOR GOOD CAUSE SHOWN and upon Eitzen's motion pursuant to Rule 67:

LET Defendants Armada (Singapore) Pte Ltd., and IHX (UK) Ltd., and International Shipping & Logistics FZE, SHOW CAUSE before the Hon. A.K. Hellerstein, United States

✓ District Judge, at 500 Pearl Street, Courtroom 14D, New York, New York on the <sup>22<sup>nd</sup></sup> day of SEPTEMBER, 2009, at 3:00 o'clock or as soon thereafter as counsel may be heard, why an Order should not be entered directing that any garnishee holding funds or other property of any of the named Defendants in the following actions:

- *Armada (Singapore) Pte Ltd. v. Ashapura Minechem Ltd.*, 08 CIV 8257 (PKC)
- *Armada (Singapore) Pte Ltd. v. Ashapura Minechem Ltd.*, 08 CIV 8258 (CM)
- *Eitzen Bulk A/S v. Ashapura Minechem Ltd.*, 08 CIV 8319 (AKH)
- *IHX (UK) Ltd. v. Ashapura Minechem Ltd.*, 08 CIV 9436 (SAS)
- *International Shipping & Logistics FZE v. Bombay Mineral Ltd. and Ashapura Minechem Ltd.*, 09 CIV 482 (GEL)

pursuant to Process of Maritime Attachment and Garnishment in any of these actions set forth above, forthwith, deposit said funds or other property into the registry of this Court; and

LET service of a copy of the Summons, Complaint, and this Order to Show Cause upon Defendant Armada (Singapore) Pte Ltd., together with all supporting papers, if served upon its already appointed New York counsel, Hill Rivkins & Hayden, LLP, by hand or by courier to its offices at 195 Broadway, New York, NY 10007 Attn: Boriana Farrar, Esq. and Mary Elisa Reilly, Esq. and James Kleiner, Esq., on or before 5:00 p.m. on <sup>SEPTEMBER</sup> ~~August~~ 4, 2009 be deemed good and sufficient service of this Order and of the Summons and Complaint in this action; and

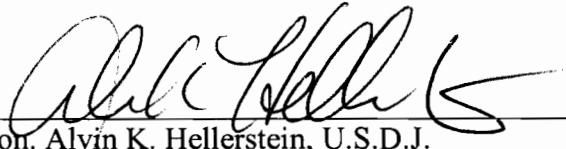
LET service of a copy of the Summons, Complaint and this Order to Show Cause upon Plaintiff IHX (UK) Ltd., together with all supporting papers, if served upon its counsel, Clyde & Co. US LLP, by hand or by courier to its offices at 405 Lexington Avenue, New York, NY 10174 Attn: Christopher Carlsen, Esq., on or before 5:00 p.m. on <sup>SEPTEMBER</sup> ~~August~~ 4, 2009 be deemed good and sufficient service of this Order and of the Summons and Complaint in this action; and

LET service of a copy of the Summons, Complaint and this Order to Show Cause upon Plaintiff International Shipping and Logistics FZE, together with all supporting papers, if served upon its counsel, Blank Rome LLP, by hand or by courier to its offices at The Chrysler Building, 405 Lexington Avenue, New York, NY 10174 Attn: Jeremy O. Harwood, Esq., on or before 5:00 p.m. on ~~August~~ <sup>SEPTEMBER</sup> 4, 2009 be deemed good and sufficient service of this Order and of the Summons and Complaint in this action; and

IT IS FURTHER ORDERED that the Plaintiffs in the other actions shall serve their answering papers, if any, including but not limited to Affidavit(s), Affirmation(s), Declaration(s), Exhibits and/or Memoranda of Law so as to be received by counsel for Eitzen (Freehill Hogan & Mahar, LLP) at their offices as set forth above by hand, by courier and/or by email to unger@freehill.com and kahn@freehill.com, on or before five o'clock on the 11<sup>th</sup> day of SEPTEMBER, 2009, and reply papers, if any, including but not limited to Affidavit(s), Affirmation(s), Declaration(s), Exhibits and/or Memoranda of Law shall be filed and served so as to be received by counsel for the Plaintiffs in the other actions as aforesaid at or before five o'clock on the 15<sup>th</sup> day of SEPTEMBER, 2009. If deemed necessary, a hearing with respect to this application will be scheduled by the Court.

SO ORDERED.

Dated: New York, New York  
~~August~~ 2, 2009  
SEPTEMBER

  
Hon. Alvin K. Hellerstein, U.S.D.J.